

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JAKE BERMAN,

Plaintiff,

- against -

UNITED STATES TENNIS ASSOCIATION  
INC., MOJO ART & IMAGE, LLC, and DOES 1  
through 50,

Defendants.

Case No.: 24-cv-4206

**COMPLAINT FOR**

**(1) COPYRIGHT  
INFRINGEMENT; AND  
(2) VICARIOUS AND/OR  
CONTRIBUTORY  
COPYRIGHT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

Plaintiff Jake Berman (“Berman” or “Plaintiff”), by and through his undersigned attorneys, hereby prays for relief based on the following:

This case involves copyright infringement of an original work of art by a collection of designers and retail outlets including the United States Tennis Association, which organizes and promotes the U.S. Open tennis tournament, one of America’s premier sporting events, generating hundreds of millions of dollars in revenue.

**JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).
3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that Defendant USTA’s principal place of business is in the Southern District of New York, and this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

**PARTIES**

4. Berman is an individual resident of New York City.

5. Upon information and belief, Defendant United States Tennis Association Inc. (“USTA”) is a not-for profit corporation with its principal place of business within this judicial district. USTA is the organizer of the US Open Tennis Championships. The U.S. Open is one of professional tennis’ four Grand Slam tournaments, and it boasts the highest attendance, most prize money and highest gross revenue of any professional tennis tournament. The 2023 U.S. Open grossed over \$514 million for the USTA and paid out approximately \$65 million in prize money.

6. Upon information and belief, Defendant Mojo Art & Image, LLC (“Mojo”) is a Maryland limited liability company doing business in the State of New York.

7. Defendants DOES 1-50, inclusive, are other parties not yet identified who have infringed Berman’s copyright, have contributed to the infringement of Berman’s copyright, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual, or otherwise, of Defendants 1 through 50, inclusive, are presently unknown to Berman, who therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

8. Berman is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, subsidiary, parent organization, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and

actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Berman's rights and the damages to Berman proximately caused thereby.

**CLAIMS RELATED TO BERMAN'S DESIGN**

9. Berman is an artist, cartographer, and author known for creating innovative transit maps in his own unique style.

10. In May 2008, prior to Defendants' actions complained of below, Berman created an original two-dimensional artwork depicting his original interpretation of the New York City subway system. This design (the "Map") is the subject of this dispute. The title of the deposit copy of the Map is "New York City Subway Map." The Map is an original artwork composed by Berman.

11. At all times, Berman has been the exclusive owner of the Map, which was registered with the United States Copyright Office and granted registration number VA 2-377-293.

12. A true and correct copy of the Map is set forth below:

14. Upon information and belief, the USTA sells US Open merchandise both in person at the US Open, which ran this year from August 28, 2023, through September 10, 2023, and online

at <https://usopenshop.org/>.

15. Berman is informed and believes and thereon alleges that USTA, Mojo, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported, and distributed garments comprised of fabric bearing an unauthorized reproduction of the Map.

16. In September 2023, Berman discovered that USTA was selling a shirt copying the Map in connection with the 2023 US Open (the “Offending 2023 Product”). The Offending 2023 Product, as it appeared on USTA’s website, is depicted below:



17. A true and correct copy of USTA’s listing for the Offending 2023 Product as it appeared at <https://usopenshop.org/products/us-open-collection-mens-2023-subway-overlap-t-shirt.html> as of September 5, 2023, is attached hereto as Exhibit A.

18. Berman is informed and believes and thereon alleges that Defendant Mojo designed

the 2023 Offending Product.

19. In early 2024, Berman also discovered that Defendants created and sold t-shirts including the Map for the 2021 US Open (the “Offending 2021 Product”) and the 2022 US Open (the “Offending 2022 Product”). The Offending 2021 Product and Offending 2022 Product identified by Mojo are shown below:



20. A comparison of the Map and the above non-exclusive exemplars of Offending Products above makes apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs at issue are substantially similar.

### **FIRST CLAIM FOR RELIEF**

#### **Copyright Infringement – Against All Defendants**



21. Berman repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

22. Berman is informed and believes and thereon alleges that Defendants, and each of them, had access to the Map, including, without limitation, through viewing the Map on the Internet.

23. Berman is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Berman is further informed and believes and thereon alleges that said Defendant(s) has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailer, which garments infringed the Map in that said garments were composed of fabric which featured unauthorized design(s) that were identical or substantially similar to the Map, or were an illegal derivation or modification thereof.

24. Berman is informed and believes and thereon alleges that Defendants, and each of them, infringed Berman's copyright by creating, making, and/or developing directly infringing and/or derivative works from the Map and by producing, distributing and/or selling garments which infringe the Map at and in connection with the US Open and through on-line websites.

25. Due to Defendants' acts of infringement, Berman has suffered substantial damages to his business in an amount to be established at trial.

26. Due to Defendants' acts of infringement, Berman has suffered general and special damages in an amount to be established at trial.

27. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized

but for their infringement of the Map. As such, Berman is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Map in an amount to be established at trial.

### **SECOND CLAIM FOR RELIEF**

#### **Vicarious and/or Contributory Copyright Infringement - Against All Defendants**

28. Berman repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

29. Berman is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of garments featuring the Map as alleged herein.

30. Berman is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

31. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Berman has suffered and will continue to suffer substantial damages to his business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

32. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Map. As such, Berman is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants'



infringement of the Map, in an amount to be established at trial.

**PRAYER FOR RELIEF**

Wherefore, Berman prays for judgment as follows:

Against all Defendants, and Each:

With respect to Each Claim for relief:

- a. That Defendants, each of them, and their agents and employees be enjoined from infringing Berman's copyrights in any manner, specifically those in the Map;
- b. That Defendants, and each of them, account to Berman for their profits and any damages sustained by Berman arising from the foregoing acts of infringement, the exact sum to be proven at the time of trial;
- c. That Berman be awarded his attorneys' fees;
- d. That Berman be awarded pre- and post-judgment interest as allowed by law;
- e. That Berman be awarded the costs of this action; and
- f. That Berman be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Respectfully submitted,

Date: June 4, 2024

By: /s/ Michael D. Steger  
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